



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 6, 1998

Mr. James G. Nolan  
Supervising Attorney  
Texas Workforce Commission  
101 E. 15<sup>th</sup> St.  
Austin, Texas 78778-0001

OR98-0367

Dear Mr. Nolan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112604.

The Texas Workforce Commission (the "commission") received requests for information about its fiscal year budgets and legislative appropriations requests, information about property transferred to the commission from the Texas Employment Commission, information about salaries and expenses for employees and appointees, and information about subsidies or compensation paid to private consultants. You contend that this information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

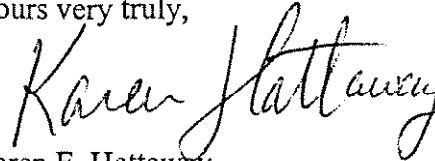
Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The Texas State Employees Union has filed a lawsuit against the commission. *Texas State Employees Union v. Texas Workforce Comm'n*, No. 97-13071 (200<sup>th</sup> Judicial Dist., Travis County, Tex., Nov. 20, 1997). The requested information relates to the pending litigation. Therefore, we conclude that the commission may withhold the information from disclosure under section 552.103(a).<sup>1</sup>

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<sup>1</sup>We note that once all parties to the litigation have gained access to the information at issue under section 552.103(a), through discovery or otherwise, section 552.103(a) is no longer applicable to that information. Open Records Decisions Nos. 551 (1990), 454 (1986). In addition, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 112604

Enclosures: Submitted documents

cc: Ms. Lynn McCray  
Organizing Coordinator  
Texas State Employees Union  
2700 S. 1<sup>st</sup> St.  
Austin, Texas 78704-5454  
(w/o enclosures)